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12   UNITED STATES DISTRICT COURT

13   NORTHERN DISTRICT OF CALIFORNIA

14   SAN FRANCISCO DIVISION

15

16 UNITED STATES OF AMERICA,   ) CR No. 09-0028-MMC
)
17   Plaintiff,   ) [PROPOSED] STIPULATED ORDER
) CONTINUING STATUS CONFERENCE
18   v.   )
) **Current Hearing Date:March 11, 2009**
19 BRANDON BERNARD,   ) Time: 2:30 p.m.
) Judge: Hon. Maxine Chesney
20   Defendant.   )
    _____) **Proposed Hearing Date: April 1, 2009**
21   Time: 2:30 p.m.

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[PROPOSED] STIPULATED ORDER CONTINUING STATUS CONFERENCE
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1   The above-captioned case is currently scheduled for a status conference on

2 Wednesday, March 11, 2009 at 2:30 p.m. At the last appearance, the parties advised the

3 Court that they were waiting for the results of DNA testing, and that the results of that

4 testing would drive the possible resolution of the case.

5   The DNA testing is now complete, and has led to the arrest of a second

6 person in this incident – Stephen Grady. Mr. Grady has been charged by a complaint (CR

7 09-70193-MAG), and the government intends to seek a superseding indictment in this

8 case – joining Mr. Grady and the defendant, Mr. Bernard, in a single indictment.

9   Therefore, the parties jointly request that the date for the status conference

10 in this case be continued until Wednesday, April 1, 2008 at 2:30 p.m. so that the status of

11 the case can be determined in light of the new superseding indictment sought by the

12 government. The government expects that both Mr. Grady and Mr. Bernard will be

13 before the Court at that time.

14   Further, the parties stipulate and jointly request that time be excluded from

15 the Speedy Trial Act calculations from Wednesday, March 11 through Wednesday, April

16 1, 2009 for effective preparation and continuity of counsel. The parties agree that the

17 ends of justice served by granting such a continuance outweigh the best interests of the

18 public and the defendant in a speedy trial. *See* 18 U.S.C. § 3161(h)(8)(A).

19   **SPEEDY TRIAL ACT IMPLICATIONS**

20   Pursuant to 18 U.S.C. § 3161, and Crim. Loc. Rule 47-2(c), there are sixty-

21 seven (67) days remaining before the trial in this case must commence. Taking the

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[PROPOSED] STIPULATED ORDER CONTINUING STATUS CONFERENCE
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stipulated time exclusion from from Wednesday, March 11 through Wednesday, April 1, 2009 into account, the "speedy trial" date for this matter is June 7, 2009.

IT IS SO STIPULATED.

_____   _____/s/_____

DATED   JOSEPH P. RUSSONIELLO
                                       United States Attorney
                                       Northern District of California
                                       MATTHEW L. McCARTHY
                                       Assistant United States Attorney

_____   _____/s/_____

DATED   LOREN STEWART
                                       Assistant Federal Public Defender
                                       Attorney for Brandon Bernard

        For good cause shown, the status conference now scheduled for Wednesday, March 11, 2009 is vacated. The matter shall be added to the Court's calendar on Wednesday, April 1, 2009 at 2:30 p.m. for status and possible change of plea.

        In addition, for the reasons stated above, the Court finds that an exclusion of time from March 11, 2009 through April 1, 2009 is warranted and that the ends of justice served by the continuance outweigh the best interests of the public and the defendant in a speedy trial. See 18 U.S.C. §3161 (h)(8)(A). The failure to grant the requested continuance would deny defense counsel the reasonable time necessary for effective preparation, taking into account the exercise of due diligence, and would result in a miscarriage of justice. See 18 U.S.C. §3161(h)(8)(B)(iv). Taking the exclusion of time from March 11, 2009 through April 1, 2009 into account, the "speedy trial" date for this matter is June 7, 2009.

        IT IS SO ORDERED.

  March 10, 2009
_____
DATED   HON. MAXINE M. CHESNEY
                                       United States District Court Judge

[PROPOSED] STIPULATED ORDER CONTINUING STATUS CONFERENCE
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